

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAMON NIGEL BELTRAN,

Defendant-Appellant.

UNPUBLISHED

June 16, 2000

No. 218491

Jackson Circuit Court

LC No. 98-090137-FH

Before: Meter, P.J., and Griffin and Talbot, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of operating a vehicle while under the influence of intoxicating liquor (OUIL), MCL 257.625(1); MSA 9.2325(1).¹ He was sentenced to thirty days in jail and to two years' probation. Defendant appeals as of right. We affirm.

Defendant argues that his sentence for misdemeanor OUIL is disproportionately severe because he did not have a prior record. We disagree. The evidence established that defendant, an off-duty police officer, rear-ended a vehicle while driving with a blood alcohol level of 0.19. Two adults and two children were injured as a result of the impact, which caused the vehicle to swerve into oncoming traffic and strike a motorcycle. The seriousness of this offense, its effect on the victims, and other factors cited in the presentence investigation report, justified the imposition of a sentence within the statutory limits. MCL 257.625(7)(a)(ii); MSA 9.2325(7)(a)(ii)² and MCL 771.2(1); MSA 28.1132(1), as amended; see also *People v Compagnari*, 233 Mich App 233, 236; 590 NW2d 302 (1998) (in fashioning an appropriate sentence, the court may consider the evidence, including other criminal activities established at trial even though the defendant was acquitted of the charges, and the effect of the crime on the victim). Accordingly, the sentence is proportionate to the seriousness of the circumstances surrounding the offense and the offender, and we find no abuse of discretion. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990);

¹ Defendant was charged with but acquitted of felony OUIL (causing serious impairment of a body function), MCL 257.625(5); MSA 9.2325(5).

² Subsection (7) was later amended by 1998 PA 350 and 1999 PA 73.

People v Castillo, 230 Mich App 442, 447; 584 NW2d 606 (1998).

Affirmed.

/s/ Patrick M. Meter
/s/ Richard Allen Griffin
/s/ Michael J. Talbot